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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,870	07/02/2003	Mohamed A. Salim	51306/889:1	6986

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EXAMINER

WALSH, DANIEL I

ART UNIT PAPER NUMBER

2876

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/612,870

Applicant(s)

SALIM ET AL.

Examiner

Daniel I. Walsh

Art Unit

2876

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 and 49-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 and 49-66 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1-04, 3-04, 11-04</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Receipt is acknowledged of the Election of 1 May 2006. In response to the Applicants traversal, the Examiner notes that as the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

#### ***Claim Objections***

2. Claim 4 and 17 are objected to because of the following informalities: Replace “within time period” with – within a predetermined time period --.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 49-51 and 63-66 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for tag deactivation, does not reasonably provide enablement for determining a location of the item relative to the data reader and correlating the location to the tag sensing operation for use in analyzing system operation. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The specification does not include details relating to such limitations as presented in the claims. Additionally, the

Examiner notes that such an invention appears to be separate (independent and distinct), but a restriction requirement was not enforced due to the claims being rejected above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1-3, 6, 11-16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike Jr. et al. (US 2003/0075602), in view of Bowers et al. (US 6,025,780).

Re claim 1, Wike Jr. et al. teaches passing an item through a read volume, identifying the item by reading a label on the item and obtaining identification data, determining whether the item includes an EAS tag by attempting to sense an EAS tag, if an EAS tag is sensed, attempting to deactivate the EAS tag and validating whether the EAS tag has been deactivated by attempting

to re-sense the EAS tag after attempting to deactivate and if the EAS tag has been re-sensed, repeating the attempting and validating steps for a given period or a given number of cycles (FIG. 9 and paragraph [0076] which teaches after a predetermined number of rebags, that assistance is provided. Re claims 6 and 18, Wike, Jr. et al. teaches that after a predetermined number of attempts at deactivating, that help can be provided. This is interpreted as recording the number of deactivation attempts, as the number is stored/logged, even if temporarily in order to determine when the condition is met.

Wike Jr. et al. is silent to assembling data of EAS system operation pertaining to sensing and attempting to deactivate the EAS tag and correlating the EAS system operation data to the item identified.

Bowers et al. teaches assembling data of EAS system operation pertaining to sensing and attempting to deactivate the EAS tag and correlation the EAS system operation to the item identified (FIG. 4) which teaches a database that stores information about the item and the status of its tag, also noting that such information is stored on the tag itself.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wike, Jr. et al. with those of Bowers et al. One would have been motivated to do this in order to keep track of inventory and tag status.

Re claims 2-3, the updating of the database is interpreted as a host that receives transmitted information of the operation data (tag status) and identification information. Though silent as to whether the information is sent separately or together, the Examiner notes that as data is sent, whether it is sent separately or together appears to be an obvious matter of design variation. As teachings of updating the information (which require information transfer) have

been taught, whether bit by bit, all at once, etc., are deemed obvious expedients. The Examiner has interpreted the cells of the database as appended data, as claimed.

Re claims 11-12, the limitations have been discussed above re claim 1.

Re claim 13, the limitations have been discussed above re claim 2.

Re claims 14-15, the Examiner notes that as the reader is part of the checkout system that is used to update information, the data is interpreted as being stored in the data reader, as the reader is used to send the information to the database. Additionally, the Examiner notes that storing records on each local device (as opposed to having a centralized data store) is also an obvious expedient, motivated for instances where a central storage/network is not provided, possibly for cost reduction.

Re claim 16, the limitations have been discussed above re claim 3.

5. Claims 4 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al./Bowers et al., as discussed above, in view of Canipe et al. (US 6,281,769).

The teachings of Wike, Jr. et al./Bowers et al. have been discussed above.

Wike, Jr. et al./Bowers et al. are silent to matching EAS and identification data together if they are received by the host within a predetermined time period.

Canipe et al. teaches (abstract and claim 1) that separate signals are generated and that after reading an item, the EAS deactivator stays activated for a predetermined amount of time.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wike, Jr. et al. /Bowers et al. with those of Canipe et al.

One would have been motivated to do this in order to select the amount of time after a read to expect to deactivate an item, for security purposes.

Though Canipe et al. is silent to sending separate signals to the host, as separate signals are generated, it would have been obvious to send the signals separately, to a host, as part of inventory/record keeping.

6. Claims 5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al./Bowers et al., as discussed above, in view of Actis et al. (US 5,837,983).

The teachings of Wike, Jr. et al./Bowers et al. have been discussed above.

Wike, Jr. et al./Bowers et al. are silent to measuring the time it takes to sense the EAS tag.

Actis teaches a monitoring system for optical codes including an average read time field 717.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wike, Jr. et al./Bowers et al. with those of Actis et al.

One would have been motivated to do this to determine code and operator performance. Though silent to EAS tag, EAS tags are another type of stored media, and the application of performance evaluation as taught by Actis et al. applied to EAS tags would have been an obvious expedient for monitoring operator performance and EAS tag performance.

7. Claims 7-10 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al./Bowers et al., as discussed above, in view of Canipe et al. (US 2003/0234288)

The teachings of Wike, Jr. et al./Bowers et al. have been discussed above. Wike, Jr. et al. also teaches that other assistance measures can be provide (paragraph [0072]). It would have been obvious to notifying an operator/worker for assistance as is conventional in the art. As the

teachings above teach updating of a database, that is interpreted as access to the sorted information (as per claim 23).

Wike, Jr. et al./Bowers et al. are silent to recording the unsuccessful deactivation, interpreted as a defective tag, tallying the number of defective tags by item identified, and determining EAS tag quality.

Canipe et al. teaches (paragraph [0042]+) the logging of transactions where deactivation did not occur for items, in an attempt to improve problems. The Examiner notes that in light of logging, it would have been obvious to one of ordinary skill in the art to use that data to tally and use the logged information to determine tag quality, as part of measures to improve efficiency and customer satisfaction.

Re claim 20, the Examiner has interpreted the database updating means as computing means for analyzing the measured values and reporting them (to the database).

Re claim 21, the database is interpreted as a single device for monitoring system performance and readability of tags.

8. Claim 19 rejected under 35 U.S.C. 102(e) as being anticipated by Wike, Jr. et al.

The limitations of claim 19 have been discussed above re claim 1. The Examiner has interpreted that the re-reading of tags that fail to get deactivated is a means to measure values of deactivation/detection for providing indication of operability.

9. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al., as discussed above, in view of Can et al. (US 2002/0038267).

The teachings of Wike, Jr. et al. have been discussed above. Though Wike, Jr. et al. is directed towards a self-checkout, it is clear that the teachings can apply to employee run cash registers/terminals, to deactivate tags, as conventional in the art.

Wike, Jr. et al. is silent to detecting and storing manual activation to deactivate an EAS tag.

The Examiner notes that it is well known and conventional in the art for cashiers to manually deactivate tags/force deactivation when the automated deactivation means are not working, for example. Specifically, Can et al. teaches (paragraph [0027] and [0090] that RFID tags are useful in preventing employee theft because it is possible to maintain records to the identity of a person deactivating or flagging an RFID tag.

Accordingly, it would have been obvious to record the employee/user doing the manual deactivation to reduce employee theft.

10. Claims 53-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al./Can et al., as discussed above, in view of O'Brien (US 6,795,809).

The teachings of Wike, Jr. et al./Can et al. have been discussed above.

Wike, Jr. et al./Can et al. are silent to specific event logging of the cashier.

O'Brien teaches cashier tests for logging events for security (FIG. 7).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wike, Jr. et al./Can et al. with those of O'Brien in order to perform the logging means as set forth in the claims as a means for security and keeping record of operator events.

11. Claims 57-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al./Can et al., as discussed above, in view of Bowers et al., as discussed above.

The teachings of Wike, Jr. et al./Can et al. have been discussed above.

Wike, Jr. et al./Can et al. are silent to transmitting indication of manual deactivation to the POS or host.

Bowers et al. teaches such limitations as discussed above, via database updating, interpreted as sending a signal.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wike, Jr. et al./Can et al., with those of Bowers et al.

One would have been motivated to do this in order to update information.

12. Claims 59-60 rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al./Can et al./Bowers et al., as discussed above in view of Mason (US 6,497,361).

The teachings of Wike, Jr. et al./Can et al./Bowers et al. are discussed above.

Wike, Jr. et al./Can et al./Bowers et al. are silent to transmitting a predetermined optical code to the POS terminal or host system.

Mason teaches that a predetermined optical code (one already predetermined as it is printed) is read/sent to the POS/host as part of a security check prior to deactivation. Whether manual or automated, a check is performed to verify the item. The Examiner notes that a UPC is a well known format, and an obvious expedient for use with current system.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wike, Jr. et al./Can et al./Bowers et al. with those of Mason for security checking.

13. Claims 57-60 rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al./Can et al./Bowers et al., as discussed above in view of Clancy (US 6,592,037).

The teachings of Wike, Jr. et al./Can et al./Bowers et al. are discussed above.

Wike, Jr. et al./Can et al./Bowers et al. are silent to transmitting a predetermined optical code to the POS terminal or host system.

Clancy teaches that certain articles are coded to indicate that they include a security tag (abstract). This is interpreted as part of transmitting a signal/code to a POS or host. The Examiner notes that though Clancy does not teach manual deactivation that has been discussed above. The Examiner notes that a UPC is a well known format, and an obvious expedient for use with current system.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wike, Jr. et al./Can et al./Bowers et al. with those of Clancy.

One would have been motivated to do this in order to correlate items with tags to selectively deactivate only necessary items.

14. Claims 61-62 rejected under 35 U.S.C. 103(a) as being unpatentable over Wike, Jr. et al./Can et al./Bowers et al./Mason, in view of O'Brien.

The teachings of Wike, Jr. et al./Can et al./Bowers et al./Mason et al. have been discussed above.

Wike, Jr. Et al./Can et al./Bowers et al./Mason et al. are silent to the records and sending to a host or server.

The teachings of O'Brien have been discussed above. Sending to a server/controller is an obvious expedient for centrally storing record data.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Wike, Jr. et al./Can et al./Bowers et al./Mason with those of O'Brien in order to store records centrally.

### *Conclusion*

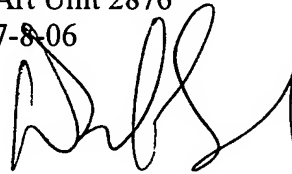
15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. (See PTO-892 attached).

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel I. Walsh whose telephone number is (571) 272-2409. The examiner can normally be reached on M-F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel I Walsh  
Examiner  
Art Unit 2876  
7-8-06

A handwritten signature in black ink, appearing to read 'D. Walsh', is written over the printed name and date.